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Tokyo Trial: Let it be Known

By Nan Wang, LLB II

On Wednesday, 2 October 1991, during the class of Public International Law (02), in the course of a discussion comparing the Nuremberg Trial with the Tokyo Trial, a comment was made that, under the circumstances, was understood to be saying that the Tokyo Trial was unjust because the Japanese war criminals were tried for acts that were no more than war acts. A dissenting opinion was then voiced that the Japanese did commit crimes other than ordinary war acts, such as the economic devastation of Indochina and that, as a result of those crimes, people in those countries for a long time did not want to buy Japanese cars. This dissent was responded to with a joke likening that attitude to Canadians once not wanting to buy Japanese cars.

Laughter ensued.

This incident would have passed as a of candid exchange of opinions followed by harmless class humour. Considering the gravity of the issue under discussion, however, I do not think that the reaction in the class was appropriate. In fact, it was appalling to me that a discussion of war crimes should end in laughter. Indeed, I do not believe that anyone would respond to recollections of the Holocaust with laughter. In my opinion, that laughter underscored ignorance of or insensitivity to the atrocities committed by Japanese fascists during World War II. The first statement, I was later assured, did not mean to deny such atrocities. Apparently, people may not know the extend of such atrocities or, if they do know, they may not appreciate what such

memories mean to the people of victim countries.

The Tokyo War Crimes Tribunal for the Far East (IMTFE) opened on 3 May 1946 and ended on 23 December 1948. The tribunal was composed of 11 judges each representing a victorious state. Canada was represented by Justice McDougall. On trial were 28 Japanese leaders accused of crimes against peace, war crimes and crimes against humanity. Of the 25 defendants still alive and fit for trial when the judgement was rendered, all were convicted: 7 were condemned to death, 16 received life imprisonment, 2 received prison terms. In spite of its significance, as historians pointed out as late as 1986. The Tokyo Trial is virtually

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Talkin' Baseball

By Alain Olivier, BCL II

For most people, October means falling leaves, shorter days and cooler temperatures. The dark days of November are just around the corner. For the sports fan, however, October is a month of great joy and excitement: the hockey season has just begun, college and professional football are in high gear, and, best of all, the World Series are almost upon us. Yes after 6 months of reading box scores, of

watching games on t.v. and of going through emotional rollercoaster of the pennant races, the Fan now gets to savor the great Autumn Classic. But, soon enough, the heroic feats of those few days in October will be only a memory: Kirk Gibson will have hit a home run, Dave Stewart will have thrown the last strike and Lou Piniella will have had his day in the sun. After that, it's all over for baseball until February...

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SMILE! SOURIEZ!

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OCT 16 1991

LAW LIBRARY

ANNOUNCEMENTS ANNONCES

FORUM NATIONAL - Forum National presents Jean Paré, rédacteur en chef of «L'Actualité» (over 200,000 copies sold every two weeks) who will speak on the topic of «La Censure» (censorship), Wednesday October 16th at noon in room 202.

TRANSCRIPT VERIFICATION - Transcript verification commences Tuesday, October 15 and ends Friday October 25. It is important to check: course numbers and sections, grades, programme, graduation information.

COIN DES SPORTS CORNER

By your friendly sportspeople

MALPRACTICE CUP — OCT. 19th

You may have noted the lovely insert that came with this week's edition of the Quid. This is the single most important document you will read during this term of law school. Yes, it's the MALPRACTICE CUP EVENTS SCHEDULE. Peruse it at your leisure, and then hurry to the Pit to sign up for teams; 12-2 in the Pit all this week (Oct. 15-18). The Grand Event takes place on Saturday October 19th, all day and all night. All law team players are kindly requested to wear dark colors, the Meds will be wearing white (it's just easier than getting pinnies!) So come one come all, join the games, have some fun.

LAW GAMES UPDATE

14 Weeks and counting to the Dal '92 Law Games, January 22-26. All those attending, welcome to the beautiful downtown Halifax Hilton, which will be host to about 900 law students from across Canada.

Women's Soccer

The Brewsters have managed to hold on to their fantastic undefeated record by tying the Ocelotson, on October 2nd (1-1). The goal was scored by Corina S. on a picturesque break-away.

Women's Football

Le lundi 30 septembre, l'équipe féminine de flag football, Les Mootloops, s'est fait massacrer (physiquement ainsi que dans le pointage) dans le match contre les filles (filles ou monstres??!!) de génie 42-0!!!

Men's soccer

On Mon. Sept 30th the Kickbackers had a solid 3-0 victory over a team called Cheese. John H. scored 2 goals, Alain S. scored 1.

On Thursday, Oct. 3rd, the boys played an excellent game against league favourite Lazio. We had

McCarthy; John Rogers and Dave Stewart. The event is on Thursday October 17th, 1991 at 7:00 p.m. in Moot Court. Tickets cost \$5 each and benefit will go to the Starlight Foundation.

THE THOMAS MORE DISCUSSION GROUP - The Thomas More discussions group is made up of law students and professors interested in discussing spiritual values and the law. Over the last couple of years the group has had 5-8 regular participants and 3-5 «strays». The group usually meets 3-4 times a term. If you are interested in being either a regular or a stray, the group will have its first meeting Wednesday October 16th at 1 p.m. in room 202. The focus of the discussion will be S.L. Carter «The Religiously Devout Judge»

them worried until two minutes before the end of the game when they scored two quick goals to take it 4-1. Jacques N. confused the Lazio offense by stopping the shot, dropping the ball, then picking it up just before the enemy forward would get it, sticking out his tongue the whole time. Edsel M. turned on the jets we have been waiting for all year and literally ran by all their defenders to score his first goal of the season.

Co-Rec softball

The 1991 Law-Wrecks capped an undefeated regular season. Led by the versatile infield play of Stacy Z. and the in-your-face attitudes of Kathleen and Lori, the Wrecks manhandled most of their opponents. Play-off hopes are high and the manager has promised to send the MVP to Disneyworld so incentive exists for maximum performance.

Men's softball

The Regal Legals swept a Saturday (Oct. 5th) doubleheader to finish the regular season at .500 barely squeaking into the playoffs. A more acceptable turnout (despite the manager's party the previous evening which would have resulted in mass urinalysis failure) allowed the 'Gals to come from behind in both games and set them up for a drive to the Mud.

Ultimate frisbee

The California Raisins' annual mud-bowl tilt with a more talented opponent took place on Sunday Oct. 6th. The Raisins led 5-4 at the half against an opponent stacked with 2 former California varsity players. A surprising effort largely the result of the 100% effort of Paul M., Chantal A. and Tamara G. Playoff bound, the team will be looking for the extra effort from everybody.

Women's hockey

Public Offenders continued their winning ways by beginning their season with a 2-1 come-from-behind win over the hated but coolly-named Chix wid Styx. Led by goals by Lucie P. and smooth-skating rookie Helen A. and a stellar defense anchored by Jen and Lory (a Gordie Howe

[1989] Notre Dame L.R. 932 and R.H. Bork «Law, Morality, and Thomas More» 31 Catholic Lawyer 1. The readings are available in the Thomas More box at LSA. If you have any questions, please contact Jon Quaglia.

LAW GAMES MASCOT - Help a friend go the Games! We are seeking Faculty sponsorship to send Véronique to the Law Games. Without our support, the social coordinator will not be able to attend the premier law school sporting event of the year. Contributions of \$5,00 will be greatly appreciated. Please deposit contributions and suggested costume design with LSA. If Véronique is able to attend the games she will graciously humiliate herself as our Mascot. (\$50 has already been raised, so we only need another \$150!).

type who shoots both right and left-handed) the Offenders showed that they will be contenders throughout the season.

Men's hockey

Law «A» kicked off their 1991-92 campaign with a ragged victory over some nameless opponent on Tuesday Oct. 1st. Warren «Cocktail» C. led the way on offense and Eric T. showed why Rob M. has been pestering him to play for 3 years by holding up a poorly supported defense.

Women's hockey

Malum in Se won 16-0 on Sunday Oct. 6th, trouncing the Babes on Blades.

Flag football

On the weekend of October 5-6, the infamous Dregs of Humanity faced a challenging double-header of flag football. In the first game, the Dregs faced the McGill Med team as a preface to the upcoming Malpractice Cup. Again, special teams made the day with a 7-6 victory. After scoring and converting early in the game, the Meds responded in the second-half with a touchdown after a forty yard drive. The play of the game went to Rob V., blocking his second conversion for the season. Noted contributions were a fumble recovery by Chris «Mr. Smith» N. and fingertip efforts by Rob H. The gentlemen's award for football field etiquette and grace went to Nick K. and Brian S. Still finger-pointing from their victory over The Medchine, the Dregs football team came out of the blocks like Ben Johnson on Sunday; post-steroid scandal that is. Due to their nonchalant play, the team quickly fell behind 6-0. Regrouping in the second half, the defence shut the MBA run-and-shoot offence down. In particular Gavin garnered more Pro Bowl votes with a well-timed pummel of the opponent's subhuman receiver. As usual, the «cardiac-kids» offense provided an exciting finish. Unfortunately, the Foreclosures were able to avenge last year's semi-final loss as The Dregs were unable to score due to a fierce goal-line stand, having had first and goal on the 2-yard line. Special thanks go out to David «White Shoes» L. for his materialistic sacrificial team spirit.

The Intramural Code of Ethics

By Jordan Waxman & Rob Michellin, Nat. IV

The old adage in sports goes: «It's not whether you win or lose, it's how you play the game». Well, despite the inherently participatory nature of intramural sports, it is still frustrating to lose. It is even more frustrating to lose with half the number of players on your roster present. Sure, emotions run high at the beginning of the semester. Upper year students reminisce about the great moments of past seasons; «winning the mug», coming together at law games, the crisp fall air. Teams are formed as fraternities, through merit allegiance, dedication.

So why then should a softball team field 7 players against 10 on a clear, sunny day. Why does a hockey team need 3 periods to skate its roster over to the refs, sitting bench minors for delay of game? The tradition and the infrastructure are crumbling and there is no guidance for the weak.

The following should help to ease team tensions, and generally enhance the experience:

1. SHOW UP: Nothing is more frustrating than not being able to field a team. If you sign up to play, show up for the games. Often there are more people who want to play, but teams are full. It is not pleasant to tell these people that they must organize another team and then see your own team not show.

2. PAY UP: Some faculties pay for their teams. We don't. This means that the Captain signs the check, which can be as much as \$180.00. It is therefore incumbent on all players to pay their share promptly. don't make your friends hound you: it is embarrassing and demeaning.

3. DON'T ARGUE WITH THE REFEREES: Intramural refs are not professionals they are students like yourselves. Generally, the quality of officiating is about the level with

the quality of play; not good, not bad, sometimes outstanding, more often ugly. It is embarrassing for your Captain (who must deal with the officials and teammates to listen to you bitch and whine. No matter where you have played before or how well you think you know the rules, shut up.

4. VALIDATE YOUR I.D.: The rules are clear: no validated i.d., no play, no exceptions.

5. COME ON TIME: Fifteen minutes before the game is adequate. Thirty minutes for hockey. Pretend you are a Marine faced with very bad duty should you not report early.

6. BEER FINES: Physical mistakes happen to everyone. No worries. Mental mistakes are intolerable. Stupid penalties at inopportune moments, failure to back up second, dumb fouls and not tying up your man after face offs are all punishable by beer fines to be levied at the sole discretion of the Captain.

7. TOO MANY CHIEFS, NOT ENOUGH INDIANS: Look around a Law Faculty dressing room. Almost everyone in there was at one point a team aptain. The result; lots of people telling each other what to do, and much confusion. The cure: the captain decides lines, positions etc. and deals with officials. If you have a suggestion, make it in that form. Captains, like other figures of authority, are not immune from quality advice.

8. SENIORITY: Law faculty teams are generally organized on seniority basis. If you played last year, you play this year, unless you indicate otherwise. While this may seem unfair to 1st year students, it does provide a degree of continuity that is valued. Also, nothing precludes students from organizing new teams.

9. PLAY HARD, NEVER GIVE UP: Intramural sports are fun and the competitions is generally good. Also, the Mug makes all the pain worthwhile.

Ouvrez-moi cette
boîte de
conserves!

By Anne-Marie Migneault, Nat'l. IV

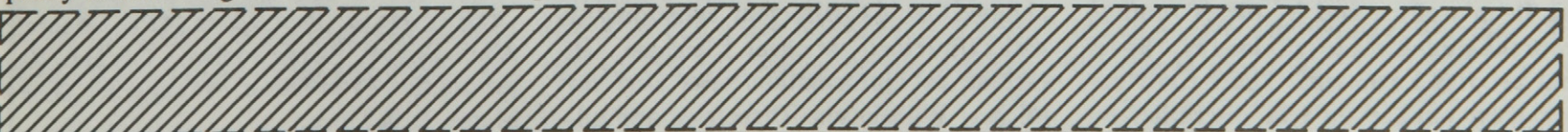
Vous vous souvenez probablement des quelques semaines durant lesquelles les salles de cours de la faculté et la bibliothèque étaient d'une température tropicale, même quand c'était frais à l'extérieur. Je me souviens d'avoir suffoqué dans une classe où les odeurs de transpiration et les vapeurs de muffins de la cafétéria compétitionnaient avec le peu d'oxygène qu'il restait.

Avez-vous déjà remarqué combien de fenêtres s'ouvrent dans la partie neuve de la faculté? J'ai vu qu'on avait installé deux ou trois fenêtres pouvant s'ouvrir à la bibliothèque (mais le concierge a enlevé les manivelles qui permettent de les ouvrir). Y a-t-il d'autres fenêtres qui s'ouvrent? On pourrait me répondre qu'il y a un quelconque système de ventilation qui s'occupe d'aérer cette boîte de conserve; est-il efficace à votre avis?

J'aimerais vous faire part des quelques commentaires que le journaliste Jean-Pierre Bonhomme, chroniqueur d'architecture et d'urbanisme à *La Presse*, a fait au cours d'une conversation entre amis. Dans les années '70, à cause de la crise de l'énergie, on a construit des édifices très hermétiques. Puis sont venus les problèmes de santé dus à la mauvaise qualité de l'air, problèmes dont nous avons tous entendu parler (Cegap du Vieux-Montréal, polyvalentes, hôpitaux, édifices à bureaux).

Face à ces problèmes on parle d'améliorer l'ingénierie des systèmes de filtration plutôt que de prévoir des fenêtres qui s'ouvrent. Il y a toutefois une autre mentalité qui émerge en Europe. M. Bonhomme a cité en exemple l'administration de la Communauté Économique Européenne, qui exige que tous les nouveaux immeubles administratifs de la CEE soient pourvus de fenêtres qui s'ouvrent.

Croyez-vous que l'on cessera bientôt de construire des boîtes de conserve?



Tokyo Trial Cont'd from p.1

unknown outside of Japan. Eurocentrism in both the popular and academic interest in World War II is a possible explanation — one only has to consult MUSE listing to find out how much has been written about the Nuremberg Trial and how little has been written about its Pacific counterpart. It is not surprising then that people in the West - North America included - are unaware of the extent of the atrocities committed by the Japanese war criminals. Thus, the subject of World War II, most people know of Pearl Harbour, but few know of Marco Polo Bridge; many have heard about the torture and killing of British and American POWs in Southeast Asian prison camps, but few have heard about the massacre of Chinese POWs for bayonet practices; almost everyone knows of Auschwitz, but few know of Unit 731; everyone knows about the Nazi Holocaust, but few have heard about the Nanking Massacre.

It was therefore just and proper that the IMTFE included in its indictment «Conventional War Crimes and Crimes against Humanity». All those condemned to death were convicted, *inter alia*, on Counts 54 and/or 55, which are «ordering, authorizing or permitting atrocities» and «deliberately and recklessly disregarding [legal] duty to secure observance of and prevent breaches of Laws of War. In the Chinese Theatre alone, the two most heinous such crimes were : (1) Unit 731, a Japanese military unit stationed in Northeastern China, which «conducted germ warfare experiments, including vivisection, on more than 3,000 prisoners of war from China and other countries» and employed germ and chemical warfare in China; (2) the Nanking Massacre (1937-38) during which 200,000 to 300,000 Chinese civil-

ians and surrendered soldiers were slaughtered and more than 20,000 Chinese women were raped by Japanese soldiers who captured the then capital of the Republic of China. At the Tokyo Trial, two Japanese defendants - General Matsui Iwane, commanding officer of the Japanese forces in Central China, and Prime Minister (1936-37) Hirota Koki - were convicted and executed for their role in the Nanking Massacre.

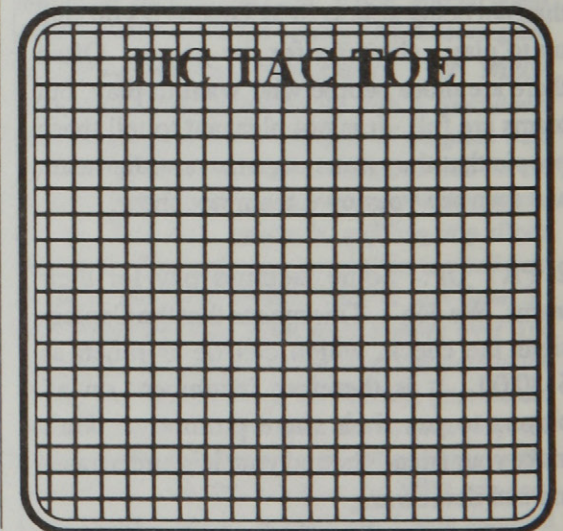
I have written all this as a matter of principle and of necessity, because even quite recently, some people in Japan, as did Zundel, Keegstra and Ross in Canada with regard to the Holocaust, still deny the Nanking Massacre ever happened. This denial could only arouse indignation among the people of the victim countries. I understand such sentiment full well, least of all because the city of Nanking was my birthplace (hence my first name). One comparison suffices to illustrate such sentiment: anyone going into the streets of Nanking and declaring that the Nanking Massacre never happened would only expect to be treated the same way as someone going into the streets of Tel Aviv and declaring that Holocaust never happened.

To come back to the topic under discussion in class that day, there did exist some injustices at the Tokyo Trial, such as the choices of justices, the procedural defects during the trial and political expediency at the expense of legal principle. Two decisions by the American military authorities are worth particular mention: (1) they decided not to prosecute the Japanese emperor, although Great Britain, the USSR, Australia, China and New Zealand urged his prosecution; (2) they concealed from the tribunal evidence of the crimes of Unit 731 - later described as

«the worst of Japanese crimes» - and granted immunity to those Japanese responsible for such crimes in exchange for sharing the experiment data for their own benefit. True, from a legalistic point of view, the Tokyo Trial may be seriously flawed; but in terms of the *raison d'être* of law, Japanese war criminals convicted and punished at the Tokyo Trial deserved every bit of the punishment (many historians and legal experts agree that even a fair trial would have led to similar punishment).

This comment does not mean to discourage class discussion on controversial issues. Like many other students in the Faculty, I have benefitted from class discussion, whether informed or not. My point is that while ignorance is excusable, insensitivity or indifference should not be associated with law students. I hope that, at least in the classroom of McGill Faculty of Law, no one will laugh again when the atrocities of fascists are recalled—be they committed against the British, the Jews, the Russians or the Chinese.

Information on the sources of data and quotations cited in this article can be obtained from either the Editor or the author.



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trative/Administrative Director: Marie-Claude Rigaud Rédacteurs/Editors: Maaike de Bie, Arnold Bornstein, Alexandra Gillespie, Nancy Girard, Francis Harvey, Gregory Hood, Paul Moen, Greg Moore, Alain Olivier, Pierre Soulard Gérants de production/Production Managers: Greg Moore, Paul Moen.

Affairs of whose mind?

By Greg Moore, BCL II

Barton Fink has been the subject of countless reviews since it cleaned up at the Cannes Film Festival last May. Curiously enough, though, not one of them has tried to present my interpretation of the sometimes-twisted tale. So I'll have to. I hope that I won't spoil the film for anyone who hasn't seen it yet, but anything can happen.

When the movie begins, Barton Fink is a New York playwright whose star is rising. He is the father of a revolution in theatre, which attempts to put the stories of the common man on the same plane as the deeds of gods and heroes. When Hollywood finds out about this hot, new talent, he is eagerly recruited. It is not made clear whether Barton is after a wider audience or a fatter paycheck but he goes.

This is when things get weird. The film goes to great lengths to show just how out of touch Barton is with the common man. The Key to

understanding this is the relationship he has with his neighbour, Charles Meadows. As his name would suggest, Meadows is the most common of common men. He is a small-time door-to-door insurance salesman whose prime motivation is providing his customers with peace and security. He also shoots people and then chops off their heads.]

Meadows refers to Barton's work as an «affair of the mind», something which he admires but has no time for himself. In other words, the common man does not relate to Barton's writing. Barton is too absorbed in his grand philosophising to listen to the real stories of the common man, which Meadows is all too eager to tell but for Barton cutting him off all the time. Incidentally, Meadows' real name is Mund, German for mouth, so Barton could be getting his stories straight from the horse's, if only he were in touch with the world around him.

But let's get back to the head chopping. The

only victim we meet is the ghost writer for a very successful, and Barton's favourite, author. She provides Barton with the advice (which he cannot appreciate) that to empathize with people you have to understand them. Meadows corroborates this, in his own way, by giving him a package which we are later to believe contains her head. He tells Barton that he does not own the package, no one really does. In other words, no one should be so pretentious as to believe that they understand the mind of the common man. Putting these two clues together reveals that Barton, or any other artist, is deluding himself when he thinks that he can write about the common man. It is interesting to note that he could not function in the movie business.

Of course there is much more to Barton Fink than artistic moralising. The writing is energetic and spirited, the photography rich and warm, and the atmosphere elegantly surreal. But you've probably read all about these in those countless other reviews.

Talkin' Baseball Cont'd from p.1

But take heart, all your baseball nuts out there! This summer I discovered a gem of a book: Summer of '49, by David Halberstam that will make the flavor of the game last through the winter months. In his book, Halberstam tells the story of the 1949 season, which pitted the powerful Boston Red Sox against the mighty New York Yankees in an epic battle for the American League pennant. The author recreates the atmosphere of that season by painting memorable portraits of the players on both squads. Here's a sampler: «Ellis Kinder, a star pitcher for the Red Sox, could only throw his best stuff after partying 'till 4 a.m. on the eve of the game; Yogi Berra, the Yankee catcher, was nicknamed «the Ape» because of his looks and had to be protected against locker-room pranks by Casey Stengel, the manager; Phil Rizzuto played short-stop for the Yankees with a glove two sizes too small, and a line drive literally ripped it apart in a crucial game towards

the end of the season». Halberstam writes his book with sincerity and with a genuine love of the game, not overlooking the player's faults, but never going into the details of their personal lives, preferring to show them in a better light, as the fans saw them forty years ago. He makes the reader believe in the player as if they were the knights of a lost age...

In fact, back in those days, people really took their baseball seriously. Listening to the games on the radio was an almost sacred ritual and reading box scores in the evening paper was an important event on one's day. Furthermore, the players were venerated by the fans...rightly so, I might add, because at that point in time, the athletes went through grueling schedules of play and of inter-state travel, and suffered through excruciating pain when they were injured, given the primitive state of sports medicine. Players' salaries were not measured against the yard-stick of Jose Canseco's five million-plus a year, but against the wages of the average

American worker in 1949. On the other hand, these athletes were happy playing baseball and didn't have to deal with drugs, «investigative journalism» and other plagues of the modern era. Even sports writers, in those days, loved the game and felt that their duty was to polish its image, not to tarnish it. As Halberstam writes:

«The sportswriter loved the game, their job, and the prestige it gave them on the paper. They were not about to make waves. There was much talk when they were together about whether a certain story «hurt baseball», an odd phrase for it implied that they not only had to cover the sport but protect it as well. There was a quiet consensus that such stories were to be avoided»

In short, baseball fans, go out and read Summer of '49 and you'll almost be able to feel the grass in Fenway Park and hear the roar of the crowd...

The Eritrean Conflict

By Bryan Haynes, LLB II
(Secretary, Forum National)

Forum National's Speakers Programme '91/92 commenced successfully on Friday October 4th with Professor Selassie of Georgetown University presenting an enlightening discussion of the present constitutional negotiations in Ethiopia, focusing on challenges and recent developments.

The stage for discussion was set at the outset with an observation of two global and opposing trends. The first was represented by the demand for secession and statehood rooted primarily in rising ethnic nationalism and assertiveness. The unravelling of events in the «Soviet Union» and Yugoslavia were referred to as examples. The second was a move towards greater intergration, regionally and globally. Regional trade blocks and the EEC were mentioned as being representative of this latter trend.

Professor Selassie observed that a resulting «confusion of sorts» is taking place by the clash of these two conflicting trends. From this confusion, he concludes, there may arise the need to reconsider the concept of international law as we understand it today.

Next came the historical background and recent developments relative to these world trends. Eritrea has waged a 30 year old war for secession to which it claimed victory in May of 1991. Despite the appearance of this civil war being indicative of the first trend, Professor Selassie expresses optimism in viewing the déroulement of events showing signs of the latter trend.

First, he compared the events in Ethiopia to those taking place in Yugoslavia and those in Somalia and Sudan where the issue of assertiveness - the fight for

power and control of the state is predominate. Rather than fighting, which has been going on for some time, the Ethiopians and Eritreans have decided to solve the conflict, by peaceful resolution.

A conference of the five liberation fronts, was thus convened in July. It provided a framework for a representative and conciliatory transitional government and the workings of democratic institutions. The conference resulted in a Charter in which a new constitution was described and a period of two years was allotted a transitional government at the expiry of which time elections in Ethiopia and a referendum in Eritrea will be held.

Despite the future potential of Eritrean independence from Ethiopia, Professor Selassie noted signs of integration. For example, Eritrea has made representation to the effect that Ethiopia's access to the sea and use of the port will be maintained.

Professor Selassie expressed optimism in the possibility, as shown by the recent events in Ethiopia, that the trend toward integration will predominate over disintegration. Further, as an important actor in East Africa, Ethiopia can set a precedent and influence others in the drive for peace.

However, one cannot ignore that it was a war of independence that brought the sides together at the conference in July, and furthermore, the results of the referendum in two years time may be more consistent with a trend toward disintegration than integration.

One person in attendance questioned the undaunted optimism of Professor Selassie by making reference to the euphoria which surrounded the independence of african states from the colonial powers

three decades ago starting with the then Gold Coast, now Ghana in 1957. Another expressed the fear that once again, the constitutional negotiations and institutions envisaged will be subject to undue and misguided foreign influence. This fear, however well-founded, was immediately dispelled by Mr. Selassie through reference to the fierce sense of independence manifested by those in control.

If I may add by analogy, one can also make reference to the euphoria surrounding the transition from military to civilian regimes, and the disappointment and utter failure (or alleged failure) which often follows. In fact, since the short-lived coup d'état on January 17, 1966 by Major Nzeogwu, and the coup of Gowon a few months later, Nigeria has only had 4 years of civilian rule (President Shagari was elected in 1979 and held the reigns of power until Buhari re-introduced the military in 1983).

Yet despite the five military coups Nigeria has witnessed since independence in 1960, President Babangida is today, as Obasanjo did in 1979, setting Nigeria on a course of return to democracy and civilian rule. But even in Nigeria the optimism is not without caution. Caution, even cynicism was expressed when I recently asked in July 1989 about Babangida's attempts to return the country to democracy by Chief Emeka and Chief Ben Obe in Eastern Nigeria. Mentioning the ban put on all but two parties which will be permitted to compete in the upcoming elections was but one reason for concern.

The potential in Ethiopia and Nigeria for stability, democracy and peace cannot but give rise to optimism, however it should be controlled optimism and not euphoria.

GREEN SPACE: On the relevancy of environmental law.

By Jull Abouchar, BCL IV

Environmental Law is about protecting endangered animals like the Island Marmot, right? As you venture out of these hallowed halls you may be surprised to find that Environmental Law is not only a real practice group in many firms but also must be reckoned with frequently by many legal practitioners.

Most industrial property holders and managers are increasingly affected by environmental laws. In many provinces, statutes impose liability for clean-up of contaminated lands on present and previous owners, purchasers, and occupiers of land. In addition, two cases decided this summer indicate that lenders and receivers can also be held liable for contamination on a property of which they have control.

In a Ontario divisional Court decision (Canadian National Railway v. Ontario, Director, Ministry of the Environment May 3, 1991) a creosote wood preserving plant was the recipient of a Ministry of the Environment order to reduce the contaminants in the effluent. One of the issues before the Court was whether a third party lender had sufficient control of the source of contamination to be considered responsible for the order. The Court held that mortgagees exercising their right of entry remedies gain control of the property and at that time could be held responsible under the Environmental Protection Act for contamination of the property. In the CNR case, it was held that the mortgagee had not taken active steps to enter the property, and that technical legal ownership of the plant does not make the lender responsible under the Act.

The CNR case leaves us wondering what steps a mortgagee in Ontario may take on property (literally) without incurring liability. The second case of note adds receivers to the list of people liable for orders aimed at protecting the environment.

In an Alberta Court of Appeal decision (Panamericana de Bienes Y Servicios v. Northern Badger Oil & Gas Ltd. June 12, 1991) a court-appointed Receiver of a bankrupt oil company was the recipient of an order from the Energy Resources Conservation board to carry out environmental safety procedures on seven abandoned oil wells. The Receiver contested the order. In a lower court decision, it was held that the order was unconstitutional because it made the Board a creditor seeking to have its order complied with ahead of the secured creditor scheme of the Federal Bankruptcy Act. The Appeal Court held that the Receiver who had managed the wells for several years was bound to comply with the order as part of the provincial law which governed the oil operation. The Court noted that since the Receiver was in control of the wells there was no other entity with whom the Board could deal.

As the majority of law students cannot avoid it, we will practice real estate or corporate commercial law at some point in our careers. Our clients will be financial lenders, industrial managers, owners, purchasers, and occupiers of land. It is useful then to know about developments in Environmental Law, even if theories of ecology and conservation put you to sleep and you think that Global Warming is a conspiracy concocted by out-of work research scientists.

SKIT NITE 1992

FOOLS IN LAW

(with apologies to Joe Jackson)

Fools in law — are there any other kinds of lawyers?

Fools in law — is there any other kind of pain?

Everything you moot, every case you read now,
every time you speak, and everything you feel,
every thing you think another bloody rule now,
everything you do, you do it for a BCL, and LLB,
the ole N.P., that damn degree.

Fools in law, are there any creatures more pragmatic?

Fools in law, as he/she sits atop the fence.

Fools in Law believe the fictions
polished shoes but feet of clay
ethics like a bunch of Nixons
I should know, I should know because I think
that law is great.

Fools in law, is there anything more retentive?
as Fools in law, can you change my mark to
«B».

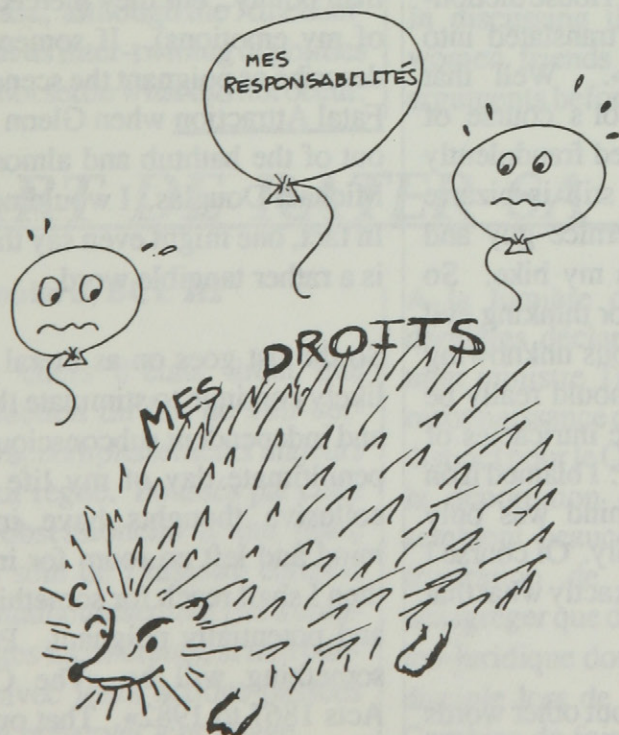
Fool in law they love the wages
cost you 'bout a grand a day
justice is for those who pay us
I should know, I should know because this
fool's in law to stay.

WE NEED YOU! SKITS, SONGS, IDEAS ARE NEEDED FOR SKIT NITE '92.

START THINKING ABOUT IT RIGHT NOW!

As you all know, SKIT NITE is an opportunity to make fun of our school, our professors and ourselves; but it's not just for laughs. We must remember that the purpose of SKIT NITE is to raise funds for CHEZ DORIS and the OLD BREWERY MISSION. Although SKIT NITE will not be held until March, the Fund Raising must begin NOW. We need your help in order to make SKIT NITE a resounding success. If you are willing to donate a bit of your time to this worthy cause please come to the LSA office Wednesday October 16th at noon.

LA MENTALITÉ NORD-AMÉRICAINE :



ANNE-MARIE MIGNEAULT, NAT'L IV.

Some of my favourite words

By Jay Sinha, LLB I

Just the other day as I was leading myself through a captivating little Department of Justice publication entitled «The Constitution Acts 1867 to 1982» I came across a few words that set off some tangential thoughts in my head. By tangential I mean not exactly constitutional. You know those words one comes across every now and then that are easily skipped over. You don't know exactly what they mean, but you figure that by taking a second look at the context you will get a decent idea of the gist, or at least enough of an idea to justify not leaving your futon on a dictionary quest. The word that triggered everything I'm about to say is not an especially ornate or gaudy word, nor is it mysterious and laced with hidden allusion; pure and simple, yet highly appropriate in the bureaucratic realm, it is «penultimate».

Penultimate is a word I've read many times. In fact when I read it this time I distinctly had the feeling that I had once known its meaning. I knew it had something to do with order but my memory just would not spit out the specifics. I did not have to leave my futon since the context made the meaning obvious. However, what really got me off on this tangent was the thought my mind conjured up before I even got into the context. I immediately had visions of two opposing teams on a field passing a pen back and forth and trying to score on each other. Though I knew full well that such a vision had no literal place in the Constitution Act 1867 (or perhaps it did; not having been there myself when it was written, I would not know) it made me smile and wonder. I thought to myself «how funny words are the way they play with our minds». I am sure many would justly argue that it is the mind that plays with the words rather than the other way around ; but is this always so? Hmmm.

I kept reading with this in mind. Then «collusively» jumped off the page and into my imagination. This is another word that I have seen and unconsciously, or at least innocently, skipped in the past. Once again, though context had the final pragmatic say, imagination had first dibs. Back in elementary school, around grade two or three, I had a really close friend named Colin whom I would call «Col». Col and I often played hide and seek and rode our bikes together. Upon absorbing «collusively» I suddenly saw my old buddy Col hiding behind a tree with my bike stuffed inside his jacket (size is irrelevant when the imagination is in gear). It was as though I could see him but he could not see me. Do bear with me, I am as lost as you likely are. I have no idea where this picture came from, let alone what it means. Actually, I do have an idea. It must have been subconscious. I think my subconscious knew exactly what the word meant but felt it would be a simple and hilarious exercise to confuse me with this bizarre image (what nuisance a subconscious can be; joking around and taking no heed of the volume of reading the average law student is required to do).

According to the Random House dictionary, «collusive» can be translated into «fraudulently contrived». Well that makes sense because Col's course of action might be considered fraudulently contrived. However, it still is bizarre because Col was a supernice guy and would never have stolen my bike. So here I am feeling guilty for thinking evil thoughts about my virtuous unknowing former pal Col when I should really be engrossed in the thematic intricacies of the Constitution Act 1867. I blamed it on the word because my mind was only doing what it does naturally. Of course I have not yet figured out exactly what that is.

Then I began thinking about other words that automatically conjure up literal

images in my head. These are what I would call juicy words; the kind of words that one's mind bites into and savours wholeheartedly. One of my absolute favourites is «tangible». Now here is a word which in my opinion just oozes with meaning (capable of being touched; material or substantial), especially when it is said out loud. It is the kind of word one could just reach over and pick out of the sentence with bare hands. I get visions of those yummy tangerine oranges that are so fun to juggle, to peel the skin off of all in one piece, and to throw pieces of into the air and sometimes catch in the mouth (actually grapes are usually better for this). I am of the belief that anyone who has not fully experienced a tangerine orange cannot fully comprehend the potential texture of the word «tangible».

«Poignant» is another beauty that just rolls off the tongue. What is poignant is that which pierces the emotions via the mind. It is officially touted as referring to things «keen or strong in mental appeal» and my mind seems to nurture this meaning by visualizing pointy things such as Hamlet's bloody sword, Jaws' teeth, Cyrano's nose and Bambi's eyes (I know, they were round and soft rather than pointy, but they pierced the tar out of my emotions). If someone were to describe as poignant the scene in the film *Fatal Attraction* when Glenn Close pops out of the bathtub and almost chops up Michael Douglas, I would not disagree. In fact, one might even say that poignant is a rather tangible word.

So the list goes on as literal words will likely continue to stimulate the facetious and independent subconscious. If on the penultimate day of my life I find that collusive thoughts have invaded my mind and left no room for imagination, then I shall reach for something tangible and potentially poignant. Perhaps that something will be «The Constitution Acts 1867 to 1982». That ought to start the ball rolling in the right direction.